

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

HEATHER NELSON, Plaintiff, v. SANTANDER CONSUMER USA, INC., PATRICK K. WILLIS CO., INC., d/b/a/ AMERICAN RECOVERY SERVICE, and ASSETS BIZ CORP., d/b/a ABC RECOVERY, Defendants,	Case No.: 11-cv-307
<hr/> SANTANDER CONSUMER USA, INC., Counter-Plaintiff, v. HEATHER NELSON, Counter-Defendant.	PLAINTIFF'S SUPPLEMENTAL TRIAL FILING ON BIFURCATION AND LATE- IDENTIFIED WITNESS

Plaintiff wishes to bring two issues to the Court's attention, the first relates to bifurcation of the trial and the second relates to a witness newly identified by defendants and its relationship to Plaintiff's Motion in Limine No. 14.

1. Bifurcation of the trial

The Court's standard preliminary pretrial conference order states that the trial will be bifurcated. Due to the nature of the claims and evidence in this case, plaintiff requests that the Court not bifurcate the trial in this case. If this case is bifurcated, it would require at least six witnesses who have testimony relating to liability and to damages to appear twice, most likely on different dates. Presentation of evidence on liability and damages together will be a more efficient use of the Court's time and resources, as bifurcation would necessarily require some

testimony to be repeated in the damages phase.

2. Late-identified witness

On May 10, 2013, the discovery cutoff date and deadline date for all pre-trial filings, at 2:14 p.m., Santander sent Supplemental Rule 26(a)(1) Disclosures to plaintiff's counsel identifying Lance Peterson as a individual likely to have discoverable information. This was the first time this individual was identified by Santander – or any other defendant – as having information that may be relevant to the claims in this case.

On May 10, 2013, at 3:13 p.m., defendants filed their Rule 26(a)(3) Disclosures and included Peterson as a potential witness for trial. (Dkt. 177)

Plaintiff asks the court to exclude any testimony by Peterson, pursuant to plaintiff's motion in limine no. 14, due to Santander's failure to identify Peterson until the discovery cutoff deadline. Plaintiff has had no notice or opportunity to conduct discovery of this late-identified witness and would be prejudiced if he is allowed to provide testimony at the trial.

Dated this 24th day of May, 2013.

s/ Ivan Hannibal

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